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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,

Plaintiff,

vs.

Donald Day, Jr.,

Defendant.

No. CR-23-08132-PCT-JJT

**MOTION IN LIMINE RE
STATEMENTS OF MR. DAY**

Donald Day, Jr., by and through counsel, hereby moves the Court for an order setting a deadline of August 29, 2025, for the government to disclose to the Defense those statements of Mr. Day which it intends to admit at trial. If disclosures are not made by that date, Mr. Day respectfully requests that the government be precluded from admitting the statement at trial.

I. BACKGROUND

Mr. Day presently faces four charges—two are threat charges, and two are firearm related charges. He has entered pleas of not guilty to all charges.

A massive volume of material has been produced in discovery concerning Mr. Day's prior statements. Mr. Day has provided hours of statements to law enforcement; there are hours of recorded jail calls; and there are hours of videos

1 created by Mr. Day that are potentially at issue in this case. Mr. Day's statements
2 were often far-ranging—covering topics far-afield of those at issue in this case.

3 **II. ARGUMENT**

4 The Defense expects the government will seek to admit short excerpts of Mr.
5 Day's statements at trial. However, given the volume of material at issue—and the
6 far-ranging nature of many of the statements—there is a very real risk that the
7 excerpts will create a misleading impression of what was said.

8 And, depending on the particular statement involved, its admission could
9 raise other evidentiary issues concerning Rules 401, 403, or 404, among other
10 concerns. But, because of the volume of material at issue, it will be impossible to
11 effectively complete this analysis during trial.

12 Accordingly, Mr. Day respectfully requests the Court order the Government
13 to indicate which portions of Mr. Day's statements it intends to introduce by
14 August 29, 2025.

15 This will allow the Defense the opportunity to assess the statements, raise
16 any evidentiary objections, and to identify whether any additional material should,
17 in fairness, be included with the statement under Rule 106.

18 Mr. Day respectfully requests that any statement the government does not
19 identify by that date should not be admitted at trial.

20 **III. CONCLUSION**

21 For all these reasons, Mr. Day respectfully requests the Court order the
22 government to identify the statements of Mr. Day it intends to introduce by August
23 29, 2025.

24 RESPECTFULLY SUBMITTED: August 6, 2025

25 JON M. SANDS
26 Federal Public Defender

27 *s/ Mark T. Rumold*
28 MARK T. RUMOLD
Assistant Federal Public Defender